

***Remarks***

Reconsideration of remaining claims 1-2 and 4-9 and 16-21 is respectfully requested.

In the Office action dated October 3, 2008, the Examiner objected to the drawings and rejected all pending claims 1-25 under 35 USC §§ 101 and 103(a). The Examiner's objection and rejections will be discussed below in the order appearing in the Office action.

***Drawing Objection***

The Examiner objected to the originally-supplied informal drawings as not being of sufficient quality to permit examination (37 CFR 1.121(d)). Applicants are supplying a set of formal drawings with this reply that are considered to overcome the Examiner's rejection. Applicants are also supplying a petition for a four month extension of time in accordance with 37 CFR 1.136(a) in relation to the submission of these drawings.

***35 USC § 101 Rejection***

The Examiner first rejected independent claim 10 as being directed to non-statutory subject matter. Inasmuch as claim 10 has been cancelled from this application (along with dependent claims 11-15), applicants believe the Examiner's rejection has been overcome and no further response is necessary.

***35 USC § 103(a) Rejection***

The remaining claims were all rejected by the Examiner under 35 USC 103(a) as being unpatentable over US Patent 6,363,053 (Schuster al.) in further view of US Publication 2003/0198235 (Weldon et al.). In the rejection, the Examiner cited Schuster

et al. as teaching “the invention substantially as claimed including a method and apparatus for testing conformance to [service] level agreements”. The Weldon et al. reference was cited by the Examiner as teaching the ability to “collect” service level information from a variety of sources and generate a report. The Examiner then concluded that “it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Schuster in view of Weldon to upload the collected VPN performance information”.

In response, applicants have amended independent claim 1 to include the limitations of dependent claim 3 and assert that the combination of Schuster et al. and Weldon et al. does not disclose or suggest the subject matter as defined by amended method claim 1, or independent apparatus claim 16.

In accordance with the present invention, a VPN client device is particularly configured to collect information regarding each attempt by the user to access the VPN. The parameters associated with each attempt are then uploaded and analyzed to provide a complete report to the user regarding the level/quality of VPN service which is being provided to him.

In contrast, both Schuster et al. and Weldon et al. are directed to periodically “testing” or “probing” a VPN to assess its performance at that point in time. In Schuster et al, for example, a time-stamped message is sent from one VPN node to another, with the received time determined and problems associated with time delay reported. There is no on-going collection of data in either Schuster et al. or Weldon et al. for each session that is attempted by a user, where this is precisely the subject matter of the present invention. Indeed, the cited prior art provides more of a ‘snapshot’ of a larger network – beneficial to the service provider; the method and apparatus of the present invention is based on the idea of collecting data from the VPN user’s point of view.

In light of these differences, therefore, applicants assert that the remaining claims are allowable over the Examiner’s cited combination of Schuster et al. and Weldon et al.

Various ones of the claims have been amended in the manner shown above to clarify this aspect of the present invention. With these amendments, as well as the submission of formal drawings, applicants believe that the case is now in condition for

allowance. If for some reason or other the Examiner does not agree that the case is ready to issue and that an interview or telephone conversation would further the prosecution, the Examiner is invited to contact applicants' attorney at the telephone number listed below.

Respectfully submitted,

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